

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

**IN RE:**

**LEO EDWARD WHELAN,**

**Debtor.**

**CASE NO. 15-41659**

**(Chapter 7)**

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**MICHAEL K. KOESLING, NOAH  
KOESLING, ARK EXPLORATION, LLC,  
JOAN WAGNER LIVING TRUST  
(AUGUST 1, 1994; REVISED  
MAY 22, 2009), JOAN WAGNER,  
VLV, LLC, LORENZO COLA,  
RONALD K. WHITE, SR. AND  
WAYNE R. HALL,**

**PLAINTIFFS,**

**v.**

**ADV. NO. \_\_\_\_\_**

**LEO EDWARD WHELAN,**

**DEFENDANT.**

**COMPLAINT TO DETERMINE DISCHARGEABILITY OF DEBT**

Michael K. Koesling, Noah Koesling, Ark Exploration, LLC, Joan Wagner, Joan Wagner Living Trust (August 1, 1994; Revised May 22, 2009), VLV, LLC, Lorenzo Cola, Ronald K. White, Sr. and Wayne R. Hall (collectively, the “Plaintiffs”) file this, their Complaint to Determine Dischargeability of Debt and would respectfully show the Court as follows:

## **I. PARTIES**

1. Michael K. Koesling is a creditor and party in interest in the case.
2. Noah Koesling is a creditor and party in interest in the case.
3. Ark Exploration, LLC is a creditor and party in interest in the case.
4. Joan Wagner is a creditor and party in interest in the case.
5. Joan Wagner Living Trust (August 1, 1994; Revised May 22, 2009) is a creditor and party in interest in the case.
6. VLV, LLC is a creditor and party in interest in the case.
7. Lorenzo Cola is a creditor and party in interest in the case.
8. Ronald K. White, Sr. is a creditor and party in interest in the case.
9. Wayne R. Hall is a creditor and party in interest in the case.
10. Leo Edward Whelan (“Mr. Whelan” and/or the “Defendant”) is the Debtor.

## **II. JURISDICTION**

11. The court has jurisdiction over this matter pursuant to 11 U.S.C. §§ 523 and 28 U.S.C. § 1334.

12. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409 because the Chapter 7 bankruptcy proceeding of the Debtor is pending in this district and the causes asserted herein arise under Title 11 or arise in or are related to a case under Title 11

## **III. BACKGROUND**

13. Mr. Whelan, individually, and through various businesses he controlled, operated in the oil and gas industry. Mr. Whelan had dealings with the Plaintiffs prepetition. More specifically, the Plaintiffs, reasonably relying on Mr. Whelan, provided money and/or services totaling the following amounts:

- a. Michael K. Koesling - \$584,973.37;

- b. Ark Exploration, LLC and Noah Koesling - \$140,335.51;
- c. Joan Wagner Living Trust (August 1, 1994; Revised May 22, 2009) and Joan Wagner - \$170,860.77;
- d. VLV, LLC and Lorenzo Cola - \$188,898.75;
- e. Ronald K. White, Sr. - \$356,151.94; and
- f. Wayne R. Hall - \$340,521.54.

14. Plaintiffs allege that they were not repaid these amounts.

#### **IV. CAUSES OF ACTIONS**

##### **CAUSE OF ACTION No. 1 – 11 U.S.C § 523(a)(2)**

15. Plaintiffs reincorporate the allegations contained in the preceding paragraphs 1 through 14 of this Complaint as though fully set forth herein.

16. The actions of Mr. Whelan meet the elements of 11 U.S.C. § 523(a)(2).

Accordingly, Defendant's debts to Plaintiffs should be determined to be non-dischargeable.

##### **CAUSE OF ACTION No. 2 – 11 U.S.C § 523(a)(4)**

17. Plaintiffs reincorporate the allegations contained in the preceding paragraphs 1 through 16 of this Complaint as though fully set forth herein.

18. The actions of Mr. Whelan meet the elements of 11 U.S.C. § 523(a)(4).

Accordingly, Mr. Whelan's debts to Plaintiffs should be determined to be non-dischargeable.

##### **CAUSE OF ACTION No. 3 – 11 U.S.C § 523(a)(6)**

19. Plaintiffs reincorporate the allegations contained in the preceding paragraphs 1 through 18 of this Complaint as though fully set forth herein.

20. The actions of Mr. Whelan meet the elements of 11 U.S.C. § 523(a)(6).

Accordingly, Mr. Whelan's debts to Plaintiffs should be determined to be non-dischargeable.

WHEREFORE, PREMISES CONSIDERED the Plaintiffs pray for a judgment against the Debtor, Leo Edward Whelan rendering the Plaintiffs' debt non-dischargeable pursuant to 11 U.S.C. §§ 523(a)(2), (a)(4) and (a)(6), for all costs of court, attorneys' fees, and for such other and further relief that the Court deems just and proper.

Respectfully submitted,

SINGER & LEVICK, P.C.

By: /s/Larry A. Levick  
Larry A. Levick  
State Bar No. 12252600

16200 Addison Road, Suite 140  
Addison, Texas 75001  
Tel. (972) 380-5533  
Fax (972) 380-5748  
[levick@singerlevick.com](mailto:levick@singerlevick.com)

ATTORNEYS FOR MICHAEL K. KOESLING,  
NOAH KOESLING, ARK EXPLORATION, LLC,  
JOAN WAGNER, JOAN WAGNER LIVING TRUST  
(AUGUST 1, 1994; REVISED MAY 22, 2009),  
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AND WAYNE R. HALL